



The WTO's Digital Trade Negotiations in the Wake of its 13th Ministerial Conference

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Eli Noam: Welcome and hello. I'm Eli Noam. I'm from Columbia speaking to you from Connecticut. Bill Drake is speaking to you also at Columbia, speaking to you from New Jersey, right? And also co-conspirator is Jason Buckweitz, who is running the show behind the scenes. So thank you very much, all of you.

So the issue today is the WTO negotiation in Abu Dhabi that just concluded a few weeks ago. And for those of you who are not following trade negotiations, in other words, normal people, sane people, this particular round, the ministerial round, was disappointing, disappointing to those people in particular who expect something.

So the greatest success apparently was to a) to have had a final statement, and secondly, to have been joined by Timor. And Comoros, two great nations I mean, small nations. The the but there was certainly one important thing, there were several things that were being discussed, and discussion itself is a positive thing, don't get me wrong.

It doesn't have to be the bottom line. But there was not much agreement, but one of it, one of the agreed issues was a kind of non-agreement. The agreement was to continue the moratorium for another two years, moratorium on taxation of e-commerce type transactions. And so, so, we'll, that will be kind of the main topic that we will talk about.

But the question really is kind of this WTO process as a whole. It doesn't seem to be agreeing on anything, and that is not because people are ill-willed per se, but rather, it is structural. First, the WTO, as it works by consensus, which is a nice way of saying is that virtually every country can have a veto.

There are some attempts to create this kind of block-type possibilities of not multilateral, but plurilateral-type agreements. But that too has been apparently blocked. We will hear about this a little later. And so, so the question really is what can the WTO really do here? Because basically if you look at the overall it cannot agree on hardly anything because there's so many countries and so many different interests.

And so in agriculture and fisheries and labor relations on any topic. Secondly whatever rules exist get violated left and right, and there is no agreement on enforcement mechanism or dispute resolution mechanism. And, but to add insult to injury, even though there's no agreements and those agreements that exist get violated, it doesn't seem to make a huge difference because international global trade keeps growing and growing and growing and so the question really is then what is its function?

The WTO, successor of the GATT kind of arose in a period in which free trade was run, ran high in estimate. And the Soviet bloc had just collapsed. China had not yet achieved a global position, and so kind of everybody was around a free trade position, championed by the United States.

But now, even in this particular round, even the United States have not really come out anymore as a leader for free trade. And the question is that we had discussed in an earlier session organized and chaired by Bill, is why did the U. S. kind of retreat? from a leadership in free trade. Is it because of anti-China?

Is it because is it pro-labor? Is it because of an anti-tech sentiment in Washington? Or is it pro-environment? Or whatever the kind of the factors are that has kind of changed the U. S. position. And in the absence of a U. S. leadership in free trade. We know that free trade is not going to go very far, at least not globally, and so then the question is whether some smaller groupings will emerge, because some agreements are necessary, but not necessarily these kind of global ones.

There could be within blocks, like the European Union. Etc, etc, or with the European Union, etc, etc. So those are some of the things that are important. And within that, the digital trade is particularly important I think, because digital trade, which was not taxed, which was free-flowing relatively speaking, has increasingly kind of been beleaguered, not necessarily by tariff rules, but by quasi-tariff rules, like, There is EU provisions and domestic locations and processing and domestic quotas and productions, et cetera, and fines on American, particularly American companies.

And so if you add it all together, free trade in digital-type activities has already been shrinking considerably. As countries have also understood, it's not only an issue of

sovereignty. And domestic policy, but as countries have also recognized that these big tech companies, mostly American, are a very rich source of revenue.

Europeans have been there first, but now the rest of the world kind of sees that this is kind of, there are some cash cows. And those cash cows can be brought in for revenue and who what country does not need more revenues. So, this is basically the situation. And now as to the specifics of digital trade we have a wonderful session with wonderful speakers.

Thank you very much, Bill, and you can please take it from here.

William J. Drake: All right, Eli, thank you for that introduction. Interesting views. So, welcome everybody and thanks for joining this month's installment of this seminar series on global digital governance. We've covered a wide range of topics since launching last year and the videos and transcripts.

The links to the previous sessions are on the website that's included in the announcement for this event. Our next meeting will be four weeks from today, Tuesday, April 16th, and we'll discuss the zero draft of the UN's Global Digital Compact which is due for release at the end of March. So, to today's topic that Eli was just speaking to trade digital trade.

The importance of trade policy to global Internet governance and digital governance is not. Always widely appreciated. We kind of have two silos out there that don't connect very well. The communities of expertise and practice around trade and the one around Internet governance and digital issues.

Often there's not a lot of really serious sustained interaction. People in the multi stakeholder Internet world tend to think of the trade world as kind of opaque and controversial and not part of our remit to deal with it. And the trade community, of course, has this kind of traditional attitude of, you know, we got this, we'll do closed door discussions behind, A shield that nobody can see over and multi stakeholder support, and Internet expertise are not really needed.

But nevertheless, binding trade rules governing commerce over networks, including the Internet, are clearly Internet governance as defined by the United Nations and related processes, and obviously integral to broader global digital governance. So we want to help to bridge the gap between these silos.

It's worth remembering, because a lot of the press coverage that talks about this stuff often is ahistorical, that the WTO's engagement in the digital space is not new. It goes back to 1994 with the negotiation of the General Agreement on Trade and Services, which was a huge treaty. Framework that directly addresses telecom networks and

services as a sector in their own right, and also as a mode of supply for the electronic transactions and other services sectors like finance and banking, et cetera.

And it establishes national commitments, liberalizing a great deal of trade services over electronic networks and other means. And then the WTO's GATS agreement was extended in 1997 by a big negotiation and deal. Over basic telecommunications that extended liberalization deep into the telecom world, and over 120 countries have made commitments on that since then.

So, and WTO has been involved in a lot of different aspects of the digital environments with intellectual property issues and trade facilitation, information technology agreements, and so on. But the rise of the Internet as an integrative infrastructure for the digital economy has really presented challenges for the WTO that go beyond the issues that were raised by the corporate networks that were the focus of cross border supply of services back when the GATS was negotiated.

And in 1998, The WTO launched a big work program on e commerce that's dragged down for 25 years with fairly little progress trying to figure out whether new disciplines are required or how do the old ones really apply to the internet environment. And a lot of governments have wanted to slow walk these issues to avoid any movement towards negotiations in a space where they feel like they don't have competitive advantage very much. Or won't really benefit from the outcomes. So, and along the way, importantly, a lot of key countries like China have said that their commitments under the GATS on computer services, and so on don't apply to the new kind of environment to the Internet and digital platforms, data flows, and so on.

So, in consequence digital trade barriers have grown like topsy in recent years, unconstrained. by WTO disciplines and efforts to try to respond to these, as Eli indicated, have moved out of the multilateral universal framework into a wide variety of varying coalitions of the like minded with different kinds of plurilateral free trade agreements and so on, resulting in a complex spaghetti bowl of rules.

That don't always cohere very well. So there's been an effort to try to deal with that since 2017. In the ministerial meeting then, there were proposals to launch a new multilateral digital trade agenda. But there was a lot of pushback from developing countries in Africa, China, India, and so on. And so, in the end, you had 71 countries that launched a kind of informal, unofficial pre negotiation called the Joint Statement Initiative, the JSI, about which we'll be talking about a lot today.

And today, there's over 90 countries involved in that, including China now. And they've been having regular informal meetings trying to agree a negotiation text. that could then be used for the exchange of concessions going forward. And they've covered a wide variety of digital governance issues from Internet openness and data flows, non discrimination, liability for platforms for transactions, consumer protection, privacy, cybersecurity, you name it, it's all in there.

And the positions have been polarized a bit between the U. S. historically pushing Kind of a strong deal, the Europeans broadly supporting that, but with more limitations, privacy, et cetera. China pushing for a more minimalist kind of thing that didn't really require them to make any changes in their domestic rules.

Developing countries split between those who support digital trade negotiations, and those who don't. And so it's been a very controversial process with all kinds of splits between different groups, including within civil society. And then, as Eli indicated, and as we talked about in our November webinar, the Biden administration threw a spanner in all the works in October 2023, announcing in Geneva that it was withdrawing its longstanding proposals for hard commitments on cross border data flows.

Forced data localization, forced disclosure of source code, non-discrimination, et cetera. And there's a lot of debate about why this has happened. It's the rise of the Biden Eastes, the anti goam, Elizabeth Warren contingent to the Democratic Party within the administration, or is it because of techno nationalism in China and securitization?

Of internet issues, a lot of different debates about that, but in any event, it's been a huge controversy. And as you probably know, the Republicans in the Congress are now launching investigations to try to demonize the staffers. in the Biden administration who dared to talk to civil society activists.

So a lot of stuff going on, but the ripples for that continue to expand. The G7 just released a ministerial declaration on digital that didn't mention cross border data flows for the first time in a decade. So the U. S. is just not clear what they're trying to do there. And the JSI negotiations are crawling along.

The leaked text from February that the chairs Put together LAC provisions. I brought all the tough issues, Data localization, data flow, source code, disclosure, non discrimination platforms. So it seems like they're moving towards a kind of minimalist e commerce facilitation deal, the kind of thing that China has been advocating for a long time.

So where all this goes and what it means to the global digital economy are big issues, and we want to try and dig into that. Today, and to do it, we have an excellent panel of experts who've written extensively and run projects on digital trade. This is actually our first panel that's all academics.

I'm not quite sure how that happened, but I'm happy that we have the folks we do. We have joining us from Switzerland, Mira Birri. Mira is Professor of International Economics and Internet Law at the University of Lucerne. She is also the Principal Investigator of the Trade Law 4. 0 project, and she was previously a Senior Fellow at the World Trade Institute at the University of Bern.

Anupam Chander is the Ginsburg Professor of Law and Technology at Georgetown Law School in Washington, D. C. He was previously the Director of the California International Law Center. and the Martin Luther King, Jr. Professor of Law at the University of California, Davis. And Martina Ferracane is a research fellow at the European University Institute in Florence and an academic manager of the Digital Trade Integration Project, who is very involved in working with international organizations and other actors on these issues.

So she's joining us from So, that's our group, and we're looking forward to a robust conversation, as always we'll do tour de tabs around a few questions we want to discuss, and then at the top of the hour, open it up to discussion, and I see a lot of people in the room, so I'm hoping that we can have a good, robust debate on all these issues.

So, let's start then with questions to the panel. And I think it'd probably be good to start with the broad context before we dive into negotiations. Before we drill down into what's going on in the JSI, etc. What's the current state of play in your view in terms of the international trade order with regard to digital trade?

In the absence of any existing framework bespoke framework right now, what kind of trends are we seeing with regard to national restrictions, techno nationalist policies, et cetera? And how does this affect the global digital economy? In other words, what's the demand for international trade? Why don't we just go in alphabetical order, maybe Mira and then Anupam and Martina, like that.

So go ahead, Mira.

Mira Burri: Okay, perfect. Thank you so much for the invitation and for getting this round of experts. All friends that I know quite well. So, first with regard to the digital trade rulemaking landscape, it is quite clear that we see more and more rules that are adopted in different forums. Not necessarily in the multilateral WTO forum, as you mentioned as Eli mentioned, it is indeed in crisis, but we see this happening in bilateral and regional free trade agreements.

Essentially, all new free trade agreements have a digital trade or electronic commerce chapter, very often with substantive and important rules that are trying to force To reduce this non tariff barriers, but not only that, so it's not only about market access, it's really about providing interoperability between domestic regimes on some important issues.

Those include some of the sort of the trade facilitation issues that you mentioned, which are not unimportant, I would argue, later on, like, electronic signatures, paperless trading, et cetera, but also things in the broader domain of data governance. Where we see rules on data flows. We do have about 45 agreements that have rules on cross border data flows.

Some of them are completely liberal. Most of them are conditional. We see rules on cyber security as well as, privacy protection. So in a sense, not only do we see the emergence of this distinct, tailored digital trade law regime, but also these new agreements have a gravitational pull in the sense that A lot of issues, non trade issues, in a sense, get regulated in this digital trade agreements.

And we also see legal innovation. So there isn't some sort of optimism there that should be highlighted as well with the emergence of the digital economy agreements. We have five so far, mostly actually pioneered by Singapore. So we also see changing geopolitics. The dynamics are changing, so the US is somehow retiring from its sort of driving force in this domain, and we see new players coming forward like Singapore, as I mentioned.

So, I would not say that it is so negative, actually, I see the sort of the domain of digital trade law, regulated, slash regulation, as one where we see international cooperation. It is still fragmented. And that is, of course, a minus, but there is a will across different governments and across different governments that have different understandings of the issues.

to actually cooperate in order to reduce trade barriers and to enable this sort of global data driven economy. There are a lot of conversations, and I'm sure we're going to touch upon those sort of fields contested fields later on, but I will leave it at this at this point in time.

William J. Drake: Great.

Thanks, Bira. That's a good start for us. Anupam, any thoughts about Data nationalism and other kinds of things you've thought about before?

Anupam Chander: So we are very much in a moment of data nationalism. The United States is caught up in data nationalism after having spent decades decrying data nationalism.

So, there's been a reversal of positions. The I was looking at RCEP versus the JSI proposal right now, and the RCEP, which includes China includes Some data localization bars of course, they're not actually enforceable through the dispute settlement process, but there's a greater commitment to avoid data localization that China has undertaken through RCEP than we are willing to undertake today, apparently.

So, it's it's a remarkable position that the United States has found itself in. And Kind of unusual. Normally, the trade positions of a country reflect the economic interests of that country. And here, it's not clear that the economic interests of the United States are represented. in those negotiations.

And so, that's fascinating. Now, the argument, and I'll just quickly just, the argument is that data flow or other liberalization positions So, the question is, how can we undermine domestic regulation? And Mira hinted at that, about the scope of digital trade today. It encroaches lots of different domains.

But really the question that trade law asks is, how can we undermine it? Are you discriminating against a foreign provider inappropriately? And so that's the main question. And so it looks very much like nationalism, like protectionism, where countries do not want to be challenged to have their rules challenged on discrimination grounds.

And we can set aside national security. I can come back to that. That's what I've been devoting my last couple of years to, last three years of my work to which is opens up a whole host of other issues but let's leave it at that. So right now the U. S. retreating, I think, largely on the theory that liberalization commitments undermine its own ability to regulate big tech.

I don't think that's an accurate view of the matter. You just need to make sure that you regulate all tech the same way and that you're not discriminating against particular country, companies from particular countries.

William J. Drake: The U. S. trade representative has no mandate to do anti trust,

I'm not sure what's going on there. Anyway. All right. Great. Thanks Anupam. Marti.

Martina F. Ferracane: Yeah, thanks. Perhaps just building on what Anupam was saying. I think that the fact that China had just tabled its language on data commitments before the U. S. made this announcement about withdrawing, I think it's not a coincidence.

It's really, it seems that now China is more willing to take commitments on data flows than the U. S. and is, Very sad because we are going to miss the leadership role that the U. S. had and I think this is bad news for trade, but also bad news for Internet governance more generally and I will argue that when it comes to the, to Internet governance, the interests of the agenda on digital trade aligns I think it fits very well with the general interest on Intel governance, especially when it comes to having a free flow of data and making sure that the Internet is not weaponized or controlled by states.

I think it's like the landscape is not very optimistic on the front and just adding given, as you were talking about what's going on and the policies we, at the UI, we're doing this project on tracking regulation on digital trade. And what we're seeing is that clearly there are more and more policies.

And what is interesting is that we don't only see more restrictive policies similar to what we saw before in terms of, like, purely protectionist policies that could be requirements

to keep data locally requirements to establish commercial in the country or restrictions on investment.

But we also see all new type of policies that are justified by security rationales. So all these screenings of investment or goods that are coming up and also policies which are aimed at controlling the digital space. also domestically. So this new rise of governments against its own companies to have more access to, for example, source code or managing AI developments.

So all of this together creates an environment which is very fragmented and yeah, and which will be very hard to work in for companies in the future.

William J. Drake: Thanks, Marty. That's great. All right, so then let's start to get into the negotiation stuff. So, as Eli mentioned, and as I did too, we just had the 13th ministerial meeting of the WTO in the UAE, and it was generally regarded as not terribly successful, but with regard to digital trade, a couple of things happened.

One was that they agreed to extend the Sleepy Work program on e commerce until 2026. But the big thing that got most of the attention was this debate over the moratorium on customs duties. Now, this was agreed in 1998 that states would continue their practice of not imposing customs duties on electronic transmissions.

And the question of what that means exactly to impose a duty on a transmission is an interesting one. And this has been renewed every two years, but it's been highly controversial, and several countries led by India, South Africa, and Indonesia have been arguing strenuously for ending this moratorium, they want, they say that they're losing tariff revenue because things that used to be sent across borders in physical form, where they could apply customs duties at the border, now we're coming in digital form, so they want to be able to impose a customer's duty on bitstreams somehow, and they're losing revenue and they're getting support in this thinking from UNCTAD, the UN Conference of Trade and Development, doing studies, saying you're losing all this money, etc.

So this is a huge battle, and this preoccupied much of the digital trade space for the past year and at the end of the day, they only managed to extend the moratorium. In the very last hour of the negotiations when the chair made a big plea to the members to agree to it. So, some thoughts maybe from you all about what happened at the ministerial, in particular, this customs duty thing, I mean, what are the issues why, and how do states want to apply it?

Customs duties and digital bitstreams. Could, if we could maybe give some people, because for people from the internet world, that might sound really bizarre. So, Mira, could you maybe help us with that?

Mira Burri: Yeah, well, thank you. So the scope of the customs moratorium was never really clear, and there was a bit of a discussion on this, to what extent it covers only the electronic transmissions.

Sort of the bits that fall, the flow, or it covers also the content. So also if you have a video or a song that would cover that as well. So this is not clarified yet, and there are different discussions. What the OACD did, however, is to show is that no matter what definition applies is to the scope of the moratorium the impact of actually not having it of.

Lying certain duties is going to be minimal in the sense that it's not going to generate a lot of revenue for those countries. That are, willing to cut this moratorium, such as India and Indonesia, as you mentioned. And what is important here is that you can still apply sort of digital taxes, so you can still have VATs and digital tax applying.

What is different with the customs duties on electronic transmissions is that they will be discriminatory. So they will be discriminating between incoming and domestic services that are offered. So, I'm very glad that the moratorium was extended. It was already controversial during the last ministerial conference.

What is interesting now and is quite different from the decision at the NC12 is that they now extend it for another two years. But they also say that the work program is going to expire on that day. So that is a huge difference and it's very much in contrast All the papers, all the discussions that were submitted before MC13, where everyone was really highlighting the importance of working together under the work program on electronic commerce, the importance of inclusiveness, in support of developing countries.

So, I was a little bit struck by this and also a little bit surprised that they also say, well, the work program is going to be finalized as well.

Anupam Chander: So let me pick up from Mira which is a fantastic description just to kind of contextualize it even further. If you go back to the 1990s and before when CDs and DVDs came in to a country many developing countries and others had customs duties on those CDs. On those movies, on those music even books that would be coming into the country.

So they'd be stopped at the border, they'd be assessed their customs duty, and many developing countries don't have a very significant income tax base. They rely more heavily on customs as a percentage of their government revenues than the United States certainly does. So, so this is so you can understand then the Countries were, hey, look, we used to get this revenue stream when things came, when movies and music came in over the sea but now we can't get it when it comes in over the ether.

And that's there's, as Mira says what the there is a workaround that is readily available, which is you can tax. You can have a Netflix type tax. You can tax Netflix or other videos, but you just have to assess it on domestic providers just like foreign providers. This is, again, that anti discrimination norm that I was talking about earlier, which is central to this.

As long as you do that, you can still earn revenues to the government for music and videos circulated locally on the Internet. Thanks for that. So, I think that's the, the, I don't know why they don't move to that model maybe that the domestic providers of these services do not want to pay those kind of taxes.

And I think that's the only explanation that I can see, but I'm not sure why that isn't a pretty simple solution to the problem. Thanks.

William J. Drake: Marti?

Martina F. Ferracane: Yeah so on this, I think that indeed, there is a lot of lack of understanding yet, and developing countries are asking to understand better what are the implications of this commitment, and that's why they have not yet committed to a permanent moratorium.

But I think there is some openness, especially after the study that you were mentioning from the IMF Wt O Anta altogether, that was made quite a compelling argument about the more efficient approach of using VIT instead of tariffs. Now as an was saying, we, they, we don't know why developing countries are still not going in the direction.

But one explanation is also the lack of possibility or capability to enforce domestically such a regulation. We'll see how that moves forward, but I think the developing countries in the WTO that have traditionally opposed the moratorium have asked for more studies and more testing.

technical discussion on this issue. So I think we will see more developments in the next months, especially because this is also part of the GSI. So, they need to agree pretty soon. And just about what that means it is quite interesting to think about the consequences of the lack of this moratorium, because Indonesia has been the only country so far that has changed its tariff lines to include also the transmissions, as they have included software and different types of software that they could decide to start tariff imposing tariffs on.

But electronic transmissions means. virtually anything. It could be any service. It could be newspapers. It could be online games. It could be 3D models that then are 3D printed. So it could mean data just so the countries could decide to, to tax data when it just flows into the country. So it's potentially a Pandora box that could lead countries to implement Very weird policies with the objective to extract revenue in a way from

foreign companies with potential negative consequences, not only on consumers because you increase costs.

So that's how also tariffs usually work. You make things more expensive for your own consumers. But also a lot of these products, especially software, are used as an intermediate product to then offer services by domestic companies. So it becomes also an increase of cost for domestic companies to offer the services in an efficient way, and therefore would have a negative impact on the economy, as some studies have shown already.

William J. Drake: Yeah, I want to pick up on something you just said, Martina, about it raises the cost domestically. I mean, just to be provocative, one could say, well, maybe this the moratorium was really important in 1998 when the Internet was first taking off. But these days, things have evolved a great deal further since then.

You have this huge over the top OTT kind of environment. And if countries try to apply customs duties, big companies like Netflix, they'll just pass the cost along to the domestic consumer, in which case it's just basically you're just, it's just going to raise the price for Indians and Indonesians and so on, rather than, disrupting the economy.

So, I mean, it's interesting the way the politics around this are changing. I mean, I've seen some trade experts like Rob House coming out and saying, Let's get rid of it. Who cares anymore? You guys don't buy that argument?

Martina F. Ferracane: Yeah, I totally agree. I think that will be the consequence if countries implemented such tariffs at the border.

In the way in which they, like, it's also very complicated to implement, but if they did it, the consequence, the increasing cost will be mostly for the local consumers and for local companies that are using these services to then develop their own services. All these companies, especially in developing countries, are relying heavily on cloud computing services or just softwares.

to develop their own services upon. So if you implement such a tariff, you're basically also implementing an extra tax on your companies and your consumers.

William J. Drake: Either of you want to reply to that or should we move on?

Mira Burri: It's going to be also a huge hit on, like legal certainty, like for businesses.

It's going to change completely the environment. So we were talking beforehand about this regulatory fragmentation This again would add another layer to this with economic impact on different companies and potentially on smaller enterprises rather than on the big ones.

William J. Drake: Yeah, that's definitely a bigger deal, the smaller the firm is, right?

Big companies could probably figure out ways to raise their prices, but for small firms that are engaged in a lot of different types of transmissions, it becomes more of a factor. Anupam, anything on this or should I move on? No? All right, well, then let's talk about the JSI stuff, because this is where the rubber meets the road, so this is a big deal.

So, governments have been working on this negotiation since 2017, trying to come up with a framework, To begin actual negotiations, exchange of concessions. Market access, and so on. And in trying to craft that text, they've been deeply divided on a lot of different important points, but then the, progress is moving a little bit, but then the people backed out.

So now we're in a different world, right? We've got a draft text out there. which has been leaked which is the only way you can see a lot of the stuff in the WTO, which is ridiculous. And it's you see that there are certain issues where there's been some closure, and the issues have been parked as being, okay, we can move forward with this.

But those are mostly kind of like narrow technical issues, like electronic signatures and so on, which are, as Mira says, important. But not demanding on countries in terms of changing their domestic policy frameworks. But then all the key issues that the U. S. used to be pushing, which are the ones that the private sector Really, it was interested in barriers to cross border data flows, requirements for forced data localization that you have to retain or process the data within the country in order to operate in the market, requirements that you must open your source code to the government.

As a condition of market entry non discrimination against digital products and so on treatment of platforms, et cetera. All that stuff has been put aside. So how do you folks read where the negotiations are and seem to be going given this new configuration? Mira, how about you? You start.

Mira Burri: Yeah. So, progress was made already last year, so there is not a huge change in now this new round of negotiations that's was concluded just last week at least when I compared the two sort of texts that we had, the negotiated texts. Something that is clear is all the bracketed texts on the issues that you mentioned have been removed.

So, the data governance issues, but we do have rules on privacy. In addition, things like cybersecurity cooperation, open governmental data, and all those need based facilitation issues. And they did a few things on ICT products that use cryptography, so that is also quite important, not to it's a norm that normally existed next to the source code norm in treaties like the USMCA.

And there are some development issues that have been taken on board, which are trying to make digital trade rulemaking more inclusive. So, overall I think they made progress and they say they can conclude already in summer. So I was actually positively surprised by this.

I thought that negotiations are going to go longer and maybe completed be completed only only in the fall. As to evaluating sort of the normative effect of these norms, I think it's pretty low if you compare to frameworks that we have, in this regional and bilateral trade agreements, which do include roles on data flows.

Also, for the United States, coming from the U. S., Japan digital trade agreement is worse from the U. S. NCA, so the U. S. too has quite important commitments coming from those treaties that should not be underestimated. And so, yeah, it's going to provide basically a baseline, which I think is still a good thing, like, providing certain legal certainty as I mentioned, and basically cutting the red tape on many of those issues that I mentioned in the area of.

Digital trade facilitation. So, there are some good things in the basket, but basket, but a lot of these major things are missing and will be missing. So they will not be taken back into the basket.

William J. Drake: Okay, that's an important point. Thanks. Anna Pam.

Anupam Chander: So when the JSI began, the negotiations began, there was a real question as to how you could possibly have the EU, the United States, and China agree on digital issues.

And as Mira says, it's actually remarkable that you see a wide range of agreement on some issues that are pressing forward. So, in that sense, I think it's a good thing. And but of course, the missing piece here is this data flows question. And so the localization of computing facilities is no longer disfavored.

In the leaked draft, though the November chairman's draft may still be the operative draft for for various purposes. So it's not clear. So there's a new leak draft just made available or last week or so. And so, so I think it's it's interesting. It's also interesting, of course, that, countries like South Africa and India.

have resisted the JSI entirely. And I'm still not persuaded that by their argument, it still goes along that e commerce moratorium. It's, South Africa stands to be The, the main e commerce platform in Africa, generally. And and India, of course, is a huge provider of digital services across the world.

So it's, I've always been puzzled by their reluctance in this context.

William J. Drake: Yeah, important point. Marci.

Martina F. Ferracane: Maybe I can pick up this point from Manupa to give my explanation of why India and South Africa have this approach. Regarding India, it seems clearly that domestic politics is blocking anything because any decision that they will take will probably be used in their elections against them.

So it could explain why at least now in the last ministerial conference, there was no ambition from India at all, even on fisheries, it's something that India usually would expect, would support. For South Africa, my personal explanation of this, because I'm also thinking and trying to understand, is that they, by preventing all African countries to interact with the rest of the world, but at the same time, pushing domains regionally for openness because in the African free trade continental area, they have a completely different approach.

They are basically securing their access to the African market without limiting other foreign actors from entering Africa. So this could be an explanation. And yeah, so just on that for sure we might see some movement this year. It seems as Mira was saying that they want to agree.

on the JI, on the GSI and the final text it will be much less ambitious than we would have hoped. And I think the U. S. is to blame mostly when it comes to data flows, for sure, because it seems China tabled a language on this. So China was willing to have a non binding, soft commitment, but it would have been much better than nothing at all.

But the, with the U. S. Deciding to withdraw. Basically, there is no hope to have data flows in the agreement anymore. This is, of course, better than nothing to have this agreement. But it also means that there is huge space for continued fragmentation, as we have seen so far. One thing that Mira had mentioned before is that in the ministerial conference, the governments have committed also to end the work program on e commerce.

And I think that's a very important development because the work program could have been a platform to continue this discussion. After the GSI, but without having this platform, I wonder how will the WTO continue discussing these issues that for sure will not be solved in two years?

Anupam Chander: Can I pick up on something Martina said? Her explanation of South Africa's negotiating position, both within the region of Africa and at the global or multilateral level through the GSI is a credible one. It's the only thing that tells a coherent narrative. But it's an, if that's the case, then it's both brilliant and cynical.

And it's, it essentially, what it does is it creates a tax on all African enterprise across the continent to promote South African enterprise. And South Africa, I just want to remind

you is a, Upper middle income country. And so if, winner take all in Africa is does not sound like a clever solution here.

William J. Drake: Thanks. Well, let me try and pick up on this to provoke things a little bit. And this goes back to something both all of you mentioned, when the initial negotiations around JSO started, it was really kind of like a coalition of the like minded, but then, and everybody decried the fact that, China and certain countries had India had said that we're staying out of it.

Then China came into it, and once they did, you have to wonder, Was there ever really a prospect for a strong multilateral trade agreement on digital with the United States, China, and Europe as its three pillars, given how completely diverse, divergent their national policy frameworks are? I mean, I think In what world was China ever going to accept strong disciplines on cross border data flows and data localization?

I mean, so, I mean, there are those people who would argue, I think, that really what the Biden people have done is just accepting reality and saying, we were never going to get there anyway with these big ambitious points. So let's just stick to the mineral list framework ones, the technical kind of stuff that's needed to facilitate trade where agreements have been reached bilaterally or plurilaterally but don't expect the broad multilateral system to be a vehicle for trade.

Promoting significant change and, I mean, you've got the Biden administration now is using the language that developing countries always used of, we need policy space, which is kind of interesting. So I just wonder, I mean, maybe this is just, one could argue just to provoke, and this maybe goes back to Eli's point too, that this is simply a right sizing of ambition that there was no way the multilateral Broad, universal system was ever going to have a shared, comprehensive, strong digital trade framework anyway.

What do you, what would be your response, Maren?

Mira Burri: Yeah, well, I agree to some extent we have all written quite a bit on, this very different models. That the EU, the US, and China had with regard to data governance more broadly. So not only with regard to digital trade. So it's about the domestic and the global dimension of it all.

But, that was, those were not static models. They changed over time, of course, with the US making this very radical change. but also China changing its position over time, starting with RCEP and then, wishing to become a member of the CPTPP and also the DIPA. So, so this Digital Economy Partnership Agreement between Singapore New Zealand and Chile.

So, and also domestically, the discourse has changed a lot. They have realized, that there is a lot of money to be made out of the digital economy, of an opener of the

digital economy. So there is I was just in November at a conference, and it was all about digital trade and how they can benefit from it.

And it was all about opening up at different levels of government in order to make this possible. So the discourse is still very much fluid. The same with the European Union, where, you know, from very early agreements, we had nothing on digital trade and certainly nothing on data flows in the preferential trade agreements of the European Union.

And now with the one with the UK and with New Zealand, we do have rules on cross border data flows, banning data localization measures, et cetera even things on source code. So, I think the EU is actually a good example of showing how one can reconcile being relatively open in the sort of conditional data flows and having a very robust framework for the data economy or broadly the data society at home.

This overdrive almost in the EU of every more than, I don't know, 100 or. really enormous amount of regulatory acts of deep regulatory interventions in the area of the digital economy. So the

William J. Drake: EU is the normative superpower. What do you think, Anupam?

Anupam Chander: EU has been the normative superpower. There's no question.

And just picking up on Mira and just kind of restating what she said, just to make sure, just make sure everyone heard her, very clearly. So the EU has Public stance against data localization. So, it's and you, Bill, you talked about policy space. The EU also has shown us, as Mira says, very extensive data governance within the European Union as their regulatory superpower, and you described it, Bill.

So, those turn out to be consistent with each other in some way if the rules are framed in that way. Now I do worry a little bit about the EU's framing that sometimes allows privacy to be excluded from any disciplines so that basically there's no test for discrimination available.

That can be problematic, but there is again, po well-preserved policy space for regulating, creating data privacy. I want my privacy. Everyone here on this room in this webinar wants their privacy. And the only question here is discrimination against providers from abroad, and that's what trade is all about.

Thus, this is why the it, the nexus between these questions and the international trade regime.

William J. Drake: And that, that focus on non discrimination gets lost in a lot of these discussions, unfortunately, especially the popular ones. Marti?

Martina F. Ferracane: Yeah, coming back to your question about whether there was hope at any point about some substantive commitment in the JI, I think clearly No one had the expectation that these three huge powers would take binding commitment on very controversial issues.

But at least we had some hope that there could be some sort of minimal non binding commitment on some of these issues. And at least clearly one thing is aiming for harmonization, which will be very hard to achieve. Another thing is to aim for interoperability or some sort of collaboration in this area.

So that would have been the ideal scenario, but it seems that even when it comes to finding ways to collaborate, these countries have not managed. To yeah, find a solution and talking about privacy, I think privacy is an example of how convergence can happen in this area, thanks to the eu pushing and having this effect on the country.

So it's definitely one area in which countries are starting to make commitments because there are. harmonizing their their regime. But we already had language on privacy in the WTO. We had a clear reception in GATS for privacy exemptions. But the EU felt the need to create this much more explicit extension of privacy from the commitments, which could also be connected to the fact that the way in which the EU regulates privacy is not always based on the following MFN basis and following a very transparent way of providing adequacy decisions.

So you were also making a comment in the chat about adequacy and data localization. Yeah, I think if we assess the adequacy from a trade perspective, we will find that the way in which adequacy decision is given is not really based on MFN basis. And the EU is not giving the same treatment to all countries that have a similar model as the European Union.

William J. Drake: Absolutely not. All right, I want to open it up to the whole group in five, four or five minutes, but just before we do it, just the last quick round, then I want to ask them, given what we see, this trend towards a more minimalist kind of agreement, Would you expect then that we will see an increasing reliance on mini lateral deals, free trade agreements, plurilateral deals outside the WTO framework, which would then, I would think, leave a lot of developing countries excluded from a lot of these trade deals, and you'd have just partners, like minded partners, very often industrialized countries forming deals.

Is that the kind of world we're likely to go towards? And if so, what does that mean, especially for developing countries? Mira just,

Mira Burri: yes. Yeah, just very quickly. I agree that sort of this regulatory fragmentation is going to continue. It's going to deepen and we're going to see more this development at different speeds at the same time.

So, while we had a sort of a graph that shows that, all countries are basically negotiating the trade agreements. Developing and developed. This is going to get messier in a way. However what I disagree a little bit with you is that developing countries will be somehow excluded from this digital trade rulemaking processes.

I do not think so. I mean, Martina mentioned before the the digital protocol to the African continental trade area. We see the very dense framework that is also in development. So we're gonna, we have a very specific rule framework for digital trade. The same is true for the ASEAN countries, including developing as well as least developed countries that are negotiating currently a digital economy framework agreement.

Also trying to create rules for this region with regard to the digital economy as more broadly conceived and covering new issues as well, such as digital talent, mobility and digital inclusion more broadly. So, I think we're going to see in a way expansion of the rules.

As to the topics that are covered, because more and more topics become relevant, but this is all going to be a sort of a messy process in a way.

William J. Drake: Thanks. Hennepin?

Anupam Chander: So, I think that's, I think I'll just echo what has been said. You are seeing these regional moves, so I think that's important. The only thing I disagree with on MIRA was she said all countries are negotiating FTAs.

As far as I can tell, the U. S. has stopped negotiating FTAs, so all countries other than the United States are negotiating pre trade agreements at this point, so I'll leave it at that. After the election.

William J. Drake: Mardi.

Martina F. Ferracane: And well, yeah on my side, I think as Mira was saying, we do see that there is anyway this This interest to continue discussion in this area, and it's a good thing, of course.

It's better than nothing. Still, we are missing a very important platform for discussion, which is the WTO, which will be the ideal solution, the most efficient solution, for sure, because the Internet is one, but also the most effective solution at tackling non economic objectives. It's like there is no, I think the WTO still remains The best platform to, to discuss these issues still this mini laterals and the discussion, for example, in digital economy agreements are a place where they could be this as Mira calls it, legal entrepreneurship with new solutions that could be used and uptaken in other agreements, in other contexts.

And when it comes to leaving behind the developing countries, I think that when it comes to digital trade, we have some developing countries showing a lot of leadership and interest in pursuing commitments. So it's not necessary between developed and developing countries, but it's really what we're seeing is really a regional trend, like a regional blocks that are building.

So I think countries like Singapore, Chile. The UK, Australia will have a very important role in trying to create a bridge between these blocks. Japan as well. So these are very important countries and we rely on them to create bridges between these blocks that are coming up.

William J. Drake: Right. So interoperability between the blocks.

We need the digital spaghetti to have the same sauce somehow. We'll see what we can do. All right. Well, let's open it up to everybody. Anybody wants to So, the conversation, please just raise your hand and say who you are and we'll go from there. All right, go. Martha, hi.

Martha Garcia-Murillo: Yes apologies.

I'm going to bring a topic that may or may not be relevant, so if it's not relevant, feel free to ignore. But I was wondering if part of this negotiations also includes satellite communications. And the only reason is because we know that China has increased tremendously the number of LEO and GEO satellites.

to the extent that they're combining it with artificial intelligence to get a tremendous amount of data worldwide. So, I'm just kind of curious as to this is something that has been addressed within the context of these negotiations.

William J. Drake: Satellites were definitely a big issue in the GATS context years ago. I, in the more recent debates, I haven't heard a lot of focused discussion on this Any of you guys have a sense of

Anupam Chander: this? I don't know the international discussions, but I will note that we just saw SpaceX announce a new division, which is going to serve the U.

S. military with spy satellites across the world. Every major country is trying to put spy satellites in the air, so I'm not surprised that China is using the spy satellites and combining it with AI, as I'm sure the United States is as well. Yeah. Mira?

Mira Burri: Perhaps one set of rules that can be relevant are the rules on cyber security, right?

So, not in a direct way, but certainly in an indirect way. And then, as from the text of the GI, we also have a part on telecommunications. So, that's going to be important for the telecommunications services and also making the reference paper applicable to all. That's only partially relevant for these networks, not so much for satellites.

But it still is a deeper market access commitment and leveling the playing field in the telecommunications sector. We don't have this normally in digital trade chapters of FTAs. Normally, it's a separate part in the services sector part of the treaty. And now we see this a little bit more clearly.

William J. Drake: OK, well, it certainly in any event, to Martha's point, all the discussions about data and how data is handled, irrespective of whether there's bespoke language on satellite systems per se. The data language becomes relevant to what the Chinese are doing, as she was saying. Marti, did you want to say something on this or no?

Martina F. Ferracane: Well, on satellites specifically, I don't know, but what I can say is that by looking at the regulations that countries are implementing, we see also more and more regulations aiming at controlling the use of data in the context of Internet of Things e SIMs and all of this. It's very complicated, the way in which also this policies are working and affecting trade, but definitely there is more interest by governments to control what's going on using their telecommunication sector.

Yeah, so we do see new policies in this area.

William J. Drake: The European proposal in the JSI has always included language to revise the telecom agreements. Et cetera, et cetera. recommendations from 1997. But I haven't seen that they specifically focused on the satellite aspect. There's a question in the chat saying asking whether from somebody named Wendy asking whether someone would like to comment on why developing countries are adopting domestic privacy regulatory frameworks with developing country elements such as adequacy and, how the spread, I mean, privacy.

Since the GDPR privacy rules are spreading globally there, there's a lot of convergence among them. A lot of countries are looking at the European model. How is this impact in the trade context and so on? Anybody have thoughts on this?

Mira Burri: Yeah, I mean, that's part of this Brussels effect that we are, we're seeing, right? Anupam was talking about this the EU being the sort of the major regulatory entrepreneur in the whole area of data governance. And we see this a lot of copy pasting of the GDPR across different countries. I think it's more than 80 countries now have essentially the same sort of a model of the GDPR.

And sometimes what is problematic from the digital trade perspective is that those very same countries may have entered into FTAs, into free trade agreements with substantial

commitments. Own data flows, own data governance that are not necessarily neatly reconciled with what they have adopted at home.

So there must be, might be a sort of a clash in this regard.

Martina F. Ferracane: Maybe if I can add something. On, on, on the effect of privacy perhaps I can say something about empirical studies that we have conducted because actually like the team I work with we try to look at empirically the cost of this policy.

So we have worked extensively on assessing how different types of regulations on Personal data affects trade. And this is important empirical evidence needed to justify also discussions in the WTO. And what we found is that when it comes to the GDPR like model this is a model that on one hand creates cost for businesses, and it's not only us.

There are many studies showing how GDPR is costly especially for small companies because it's very expensive to, to implement it, to comply with, but what we found at the global level is that the increased trust of consumers towards the Internet, which is connected to a GDPR like policy, is compensating the loss of trade stemming from the costs of the conditions.

So this is what we find globally. So generally, the GDPR does not seem to impact trade which is not what we expected originally because we expected to have a negative effect of GDPR overall. Very interestingly, we have a new study which is not published yet which is on Africa. What we did was to assess 54 African countries and how their personal data policies affect trade within Africa.

And what we found are very different results in the sense that a GDPR like model. for Africa has a clearly negative effect on inter regional African trade. So basically the conclusion of our research is that while overall, globally GDPR is something that does not seem to have a negative effect on trade and is actually creating trust, within Africa, copying and pasting something that comes from another context can create negative effects.

And now we have empirical evidence to show this.

William J. Drake: Marty, is that report published?

Martina F. Ferracane: Not yet. We are about to publish a month or so. We'll be out with the African Economic Research Center. Would you mind just saying very quickly why? Why? Because the cost of compliance with GDPR is something that developed countries, companies in developed countries can implement and deal with more easily.

But in Africa, the cost that comes from complying is, cannot be compensated by the increased trust of consumers in these countries.

William J. Drake: Thank you. It's been a huge boon to lawyers in Brussels, right? The GDPR. I mean, every company has had to ramp up big compliance departments and, there's consultancies everywhere.

GDPR is a huge industry. But if you're in Africa, that might be a harder lift, right?
Annapurna.

Anupam Chander: Sure. So the question is about the proliferation of adequacy rules across the world. And so, and one of the questions was why? And so, partly I think it's because there is the cut and paste as Mira described.

So now why is the cut, why is there this cut and paste? in part because the adequacy system of the European Union kind of encourages other countries to adopt similar laws and therefore it, adopt laws that impose adequacy. Now, the irony of all this is that the European Union now is being tested if these rules are implemented as to whether or not it is adequate.

adequate to protect privacy. Now, the European Union does not test its own countries national surveillance laws for purposes such as those in Schrems 2. And so it's, there's an open question whether the European Union is Actually satisfies the SHREMS 2 standard. The U. S. Department of Justice decision and U.

S. government's decision which was necessary in the context of the Transporter Data Privacy Framework is actually really important. The reasoning is really very weak as to why the European transfers of American data to the European states actually provides all the protections that they have in the, that they would have in the United States.

It relies upon the European Court of Human Rights. Fundamentally, as the main source of protections for the European Union's data. I want to remind you that Russia was, until just a couple years ago, a member of, also subject to the European Court of Human Rights judgments so which might tell you a little bit about the extent of which the that court's rulings are have forced across the the European states.

So anyway, there's a lot to ask about the proliferation of adequacy rules across the world. Paul Schwartz and I have a paper called Privacy and or Trade, which talks about this proliferation across the world.

William J. Drake: Right. Okay, there's a question in the chat from Cedric Ammon asking, Again, just to go back to the moratorium issue for a second, and he'd like to hear more about the strong opposition from Indonesia to the renewal of the moratorium.

What is really the thinking? I mean, it's, we talked a little bit about this, but I mean, to get a little bit deeper, maybe, into the thinking of those who argue that the moratorium is negative in its impact for developing countries. I mean, how is this kind of Thinking,

what are the real intellectual rationales that, I mean, aside from just saying, well, it used to be that if you shipped music and a CD, we could tax the CD, now we can't tax the CD.

But I mean, the moratorium would extend far beyond that, right? It's not just on videos. It's not just on music. It's on any kind of electronic transact transmission. So, what is the thinking going if you're talking about transmissions in the insurance or, just individuals or bloggers or who knows?

I mean, there's all kinds of data that could possibly be subject to duties. So, how are they thinking about this? Are you guys tracking that discussion at all?

Mira Burri: Maybe I can start. I can't speak so much about Indonesia, but maybe about India. So, I mean, it all started really with this study that was published by UNCTAD in 2019, where it was shown that developing countries are losing money, and it's like in the amount of 8 billion, so a huge amount of money, having been deprived of this sort of, Digital tax or customs duty, but there are also other arguments that come on top that we haven't talked about, and one is about this digital data inequality in the sense that, like, local users and companies are becoming source of raw data for foreign companies that, Can, by using this data, also improve their services and basically become dominant on the market, while at the same time, those countries would not have the possibility to develop their own digital economy startups, because they would not have access to the data, and also because, of course, they lack resources.

So this argument of digital gap, digital data inequality is also coming in. I think with regard to India, as Marty mentioned, it has a lot to do with sort of domestic politics and how they tailor their own data governance system. Basically that, this people's data belongs to the government, but it can also be commercialized.

So it's a very strange model. And India has also made quite a bad experience with the WTO Information Technology Agreement. That this zero tariff agreement that we have for IT goods. They were part in the first edition in 1998, however actually through this agreement, which abolishes tariffs for IT goods India lost market share globally.

So that become became a political argument that was very much used by domestic sort of constituencies to also to argue against. This involvement in digital trade, we're making, including also custom, the custom physical telephone.

William J. Drake: That's an important linkage. Yeah. Marci, go ahead.

Martina F. Ferracane: Yeah.

So I think that's the beauty of having empirical research in this area, because one thing is what emotionally you think, and another thing is to check empirically what's going on. Yeah. And India has made similar arguments in the past with ICT goods. India didn't sign

up to the ITA expansion, but when you look at the exports of ICT products from India, you see that it's much lower than in China, for example.

And this could be one of the explanations given that they're implementing high , some intermediate goods. And when it comes to, to the transmissions, I think the arguments is very similar in the sense that it's very. simple to see that you are losing tariff revenue. It's just, it's the immediate reaction when you see when you see that instead of goods, you're importing instead of books, you're importing eBooks, instead of papers, you're actually newspapers well, instead of nation newspapers, you're accessing newspapers online.

But what the UNCTAD study did, I think, was a disservice in the sense that what it did was to measure just the loss of tariff revenues without looking at the trickle down effects on the economy when it comes to consumers and businesses. So if you merely look at the loss of tariff revenues, of course, you lose tariff revenues.

But by losing tariff revenues, you're also giving access to your companies to more efficient services that they can use. As we discussed before. So yeah, I think that WTO and all the others is much more comprehensive and provides a better perspective. And that's why also countries I think this is also the reason why countries now have extended the moratorium.

Without this study, I don't know if they would have done it because there's a clear empirical study showing that. Having a more comprehensive perspective and now developing countries are really thinking about all the effects of implementing this this study. And just one last thing about Indonesia and what what is the thinking of Indonesia.

They have this and documenting the WTO, one of in which they talked about the reasons and what they say is, of course, a state revenue as one of the explanations, but also they clearly say that they need to support local SMEs against the unfair competition of foreign providers.

So this is clearly the argumentation that these companies are coming in and offering their goods and compared to brick and mortar. Shops they don't pay their fair share of taxes. So that's the idea behind the position of Indonesia.

William J. Drake: Yeah, I would just pick up on what you said, Marti.

I think for people who don't spend much time in Geneva it's worth noting how much impact on the thinking and developing country governments you get from the advice provided by UNCTAD, the South Center, and other kinds of groupings where you've got some folks who are still in the import substitution, 1960s vision of how international

trade works and you should just, impose tariffs and that's going to make everything better without asking, how does that impact domestically?

Right? I mean, if you raise costs for everybody how does that impact your own domestic users? across the economy and in civil society, etc. There's a, there's another Anupat, did you want to get on this or should I go to the next question?

Anupam Chander: Import substitution is what we're doing with TikTok today.

Right.

William J. Drake: There you go. So to come full circle there's a, there's another question in the chat, but before I read it, I just want to point out to people that you're perfectly welcome and indeed encouraged to just raise your hand and come on screen and ask your questions as well. This is how we normally do things as Martha did.

Jen Brody, IGP. Asked given USTR's policy reversal on cross border data flows, do you have any countries in mind who could play an important role by stepping in to fill this void and promote data flows? I mean, it's worth noting that the, the the facilitators, the drivers of the JSI discussions, Australia God, now I'm blanking, Australia, Japan, and Huh?

Japan and Singapore. Singapore. So there are other countries that are trying to step into the breach in terms of exercising some leadership in the discussions. But, of course, they can't drag everybody towards making strong commitments. Any thoughts from any of you on that, or filling the void of the left by the U.

S. withdrawal from leadership?

Mira Burri: Maybe just, I mentioned already the role of Singapore. So, Singapore is part of all digital economy agreements except for the one between Japan and the United States. And the scope of the provisions in this digital economy agreement has been extended over time with the UK, Singapore, and the DIPA being the most sort of advanced models that we have.

And they provide not only, commitments or the digital economy, but also really a platform for cooperation on some of the emerging issues like fintech and artificial intelligence. So I think certainly those countries can take the lead. And sometimes there are quite nice studies that show that, this small country corporation can actually work very well.

And it was indeed Singapore and Japan that in cooperation with New Zealand that saved the failed TPP. And, it could be then adopted as this big mega regional now that the CPTPP is without the participation of the United States.

Martina F. Ferracane: Maybe

Mira Burri: just

Martina F. Ferracane: some thoughts. So as we were saying before, I think the role of these countries will be crucial countries like Japan, Singapore, Australia, Chile in Latin America, UK in Europe, I think will be also very important. But none of these countries even together can play the role that the U. S.

has played in the past. So we're clearly going to see a lack of leadership that we will miss. And if I can be a bit provocative, I think China pulled take a very important role in the future. It will not be about taking binding commitments, but at least to try to drive the discussion because they have now the offensive interest to do that.

So they could play a bigger role and they're trying to with the CPTPP requests, with what their approach in the GSI, their approach in the latest ministerial conference. So I think Maybe we could see a bigger role coming from that direction.

Anupam Chander: Add to that, which is that there's a reason that China might be particularly interested, as Martina has said, their own interests here are to ensure data flows.

The United States has the Biden administration has indicated that it's very concerned about Chinese cars entering the United States. Why? Not because of competition with American cars. Okay, that's not the surface reason. The surface reason is because of data flows back to China. So data flows to China suddenly become the reason to keep Chinese cars out of the U.

S. markets. By the way, that now can expand to all of China. All sorts of goods, all your smart IoT goods have that feature with them. And so you could kick out all of these Chinese goods en masse and declare them to be a threat to national security. By the way, the United States sells a ton of cars in China our cars are also connected et cetera, so, China sells no cars in the United States so it's a very interesting position because the, if China has a data localization obligation on connected cars, by the way, already but but anyway it's a fascinating question.

William J. Drake: NVIDIA's AI chips are going to be in cars sold in China, though, so that's interesting. The whole situation gets pretty blurred. All right, well, look, I think, I'm not sure that we got directly to Ely's how much does WTO actually matter question here, but I think we kind of came around it from different aspects.

But I think we can move towards closure here. So, I want to thank the panelists for a very interesting conversation. I want to also thank Jason Buchweitz, the Executive Director of CITI, for operating all the stuff behind the scenes. I want to remind you that,

again, four weeks from today, We'll meet again to talk about the Global Digital Compact negotiations in the UN, and let me turn back to Ali for a closing thought.

Eli Noam: Thank you. I don't have closing thoughts, just a few words. Thank you. Thank you. This Bill's webinars are always really interesting and informative, and this one was Within that kind of great set of webinars, really kind of a wonderful one, and that credit goes to our great speakers who were lively and really kind of, this was the first time, as Bill mentioned, that we had three academics there, and you really did a great time.

Great job to show that academics have a lot to say on this and can do so in a very nice, interesting, smart, and lively fashion. So, thank you for your erudition and experience in this, and thank you for informing us. I think we all go back from this webinar. Understanding some of the issues that are upon us.

No doubt they will be similar next year because this processes tend to the terms change, but the basic problems of national and global and regional and free and protected and so on. It will be with us forever and ever. So thank you very much, bill. Thank you very much everyone for joining us, and we'll see you next week.

Okay, bye bye.

Mira Burri: Everyone, bye bye. Thank you.

Eli Noam: Thanks, Phil.

Anupam Chander: Bye bye.